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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,276	02/20/2004	Mitch Jenkins	015714.0033US1	7619
34284	7590	05/04/2005	EXAMINER	
ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931			O'CONNOR, CARY E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,276

Applicant(s)

JUNKINS

Examiner

Cary E. O'Connor

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 52604.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn et al (5,987,681). Hahn shows a cleaning device comprising a handle 1 housing a power source, a separable neck section 3 in electrical communication with the handle and housing a vibration source 5, and an interchangeable cleaning head 2 that receives the vibration source. As to claim 15, note that the head comprises a brush. As to claim 19, note that the vibration source comprises an eccentric weight 5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-9, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushberger (5,267,579) in view of Murayama (5,343,883). Bushberger shows a flossing device comprising an internal supply of floss 52, a pair of tines between which a

length of the floss is strung, and a vibration source. Bushberger does not specify the frequency of the vibrations produced by the vibration source. Murayama shows a flossing device having a vibration source which causes the floss to vibrate. Murayama discloses that the frequency produced by the vibration source may be between 2000 and 20,000 Hz (column 6, lines 24-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made produce vibrations by the vibration source of Bushberger in frequencies between 2000 and 20,000 Hz, in view of Murayma, in order to effectively clean the teeth. As to claim 5, note that the vibration source of Bushberger may be an eccentric weight (column 5, lines 58). As to claim 7, Bushberger and Murayama discloses the claimed invention except for the cutting blade located on the tines (the cutting blade 65 of Bushberger is located on the handle). It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the cutter of Bushberger on a tine, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. As to claim 8, note that the floss supply is a spool of floss 52 (column 4, line 54). As to claim 11, note the battery 84 placed in the handle of Bushberger.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bushberger (5,267,579) in view of Murayama (5,343,883) as applied to claim 1 above, and further in view of Thackrey (4,555,697). The devices of Bushberger or Murayama do not utilize an electromagnetic buzzer as the vibration source. Thackrey shows a orally held vibration alarm wherein the vibration source is an electromagnetic buzzer 3 (column 3, line 19). It would have been obvious to one of ordinary skill in the art at the

time the invention was made to replace the vibration source of Bushberger with an electromagnetic buzzer, in view of Thackrey, because it is more lightweight than the motor/eccentric weight arrangement.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bushberger (5,267,579) in view of Murayama (5,343,883) as applied to claim 1 above, and further in view of Hahn et al (5,987,681). The vibration source of Bushberger is not located in the head. Hahn shows a dental cleaning device having a vibration source 5 located in the head. It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the vibration source of Bushberger in the head, in view of Hahn, to prevent undesirable vibration of the handle.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushberger (5,267,579) in view of Murayama (5,343,883) as applied to claim 1 above, and further in view of Romanus (5,188,133). The flossing devices of Bushberger and Murayama do not include a floss advancing mechanism or a floss release mechanism. Romanus shows a flossing device comprising a floss advancing mechanism (claim 1, lines 8-11) and a floss release mechanism (claim 1, lines 11-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the flossing device of Bushberger with a floss advancing mechanism or a floss release mechanism, as taught by Romanus, so that the floss can be easily advance from the floss source and toward a floss exhaust.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al (5,987,681) in view of Mochel (5,261,430). Hahn states that the head

may be separated from the handle to permit the brush head to be exchanged (column 3, lines 39-43). Mochel shows a vibrating cleaning device having exchangeable heads, including a pick (fig. 3), a brush (fig. 5) and a blade (fig. 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Hahn with exchangeable heads including a pick and a blade, in view of Mochel, because the device would provide greater utility for the user.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al (5,987,681) in view of Montagnino (5,947,912). Hahn states that the head may be separated from the handle to permit the brush head to be exchanged (column 3, lines 39-43). Montagnino shows a vibrating tongue cleaning device wherein the head is removable and replaceable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Hahn with exchangeable heads including a tongue scrapper, in view of Montagnino, because the device would provide greater utility for the user.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al (5,987,681) in view of Thackrey (4,555,697). The device of Hahn does not utilize an electromagnetic buzzer as the vibration source. Thackrey shows a orally held vibration alarm wherein the vibration source is an electromagnetic buzzer 3 (column 3, line 19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the vibration source of Hahn with an electromagnetic buzzer, in view of Thackrey, because it is more lightweight than the motor/eccentric weight arrangement.

### ***Specification***

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (page 5). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "610" has been used to designate two different elements in Figure 6. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

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